

CA1 YB

- B37

Second Session, Twenty-Second Parliament, 3-4 Elizabeth II, 1955.

THE SENATE OF CANADA

BILL B¹³.

An Act to amend the Prisons and Reformatories Act.

AS PASSED BY THE SENATE, 18th MAY, 1955.



THE SENATE OF CANADA

BILL B¹³.

An Act to amend the Prisons and Reformatories Act.

R.S. cc. 217,
333;
1952-53, c. 7.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Sections 110 to 120 of the *Prisons and Reformatories Act*, chapter 217 of the Revised Statutes of Canada, 1952, are repealed and the following substituted therefor: 5

"Industrial Home for Boys.

Boys under
16 years.

110. Where any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer may be imposed upon an adult convicted of the like offence, the court before whom such boy is convicted may, if satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the Boys' Industrial Home, established in the Province, sentence the boy to be imprisoned in the Boys' Industrial Home for such term as the court thinks fit, not being greater than the term of imprisonment that could be imposed upon an adult for the like offence, and may further sentence the boy to be kept in the Boys' Industrial Home for an indefinite time after the expiration of the fixed term; but the whole period of confinement in the Boys' Industrial Home shall not exceed five years from the commencement of his imprisonment. 15 20

EXPLANATORY NOTES.

The amendments proposed by this Bill have been requested by the Province of New Brunswick. The purposes are:

1. To provide that boys committed to the Boys' Industrial Home (formerly known as the Industrial Home for Boys) may be committed to the institution for an indeterminate period, not exceeding five years, and to vest authority in a parole board, provincially appointed, to release such inmates at any time during that period. This proposal is consistent with what is now done under the *Prisons and Reformatories Act* in a number of other provinces, notably Ontario and British Columbia.

2. To provide for the transfer of prisoners from county gaols to a provincial reformatory institution proposed to be established. The amending provisions are in the same terms as the provisions now applicable in respect of Ontario and Alberta.

The proposed new sections 110 to 118 will replace the present sections 110 to 120, which read as follows:

"110. (1) Where any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer may be imposed upon an adult convicted of the like offence, the court before whom such boy is convicted may, if satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the *Industrial Home for Boys*, established in the Province, sentence the boy to be imprisoned in the *Home* for such term not greater than the term of imprisonment that could be imposed upon an adult for the like offence as the court thinks fit.

(2) Such court may further sentence such boy to be kept in the *Industrial Home* for an indefinite time after the expiration of such fixed term; but the whole period of confinement in the *Industrial Home* shall not exceed five years from the commencement of his imprisonment.

Additional
imprisonment
for purposes
of reform.

111. Where any boy, apparently under the age of sixteen years, is convicted of an offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of not less than fourteen days, any judge of the Supreme Court or a county court, in any case occurring within the county or counties for which he is such judge, may examine and inquire into the circumstances of such case and conviction, and when he considers that the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy, either forthwith or at the expiration of his imprisonment in such gaol, to the Boys' Industrial Home, to be there detained for the purpose of his industrial and moral education for an indefinite period, not exceeding in the whole five years from the commencement of his imprisonment in the common gaol.

Term.

Parole
Committee.

112. The Lieutenant-Governor in Council may appoint a Parole Committee whose duty it shall be to inquire from time to time into the cases of prisoners sentenced to the Boys' Industrial Home, and where as a result of such inquiry the Parole Committee thinks proper, it may permit prisoners serving sentences in the Boys' Industrial Home to be discharged on parole under conditions approved of by the Minister of Justice.

Clergymen
visitors.

113. The clergymen of all religious denominations shall at all convenient hours and subject to the rules or regulations governing the Boys' Industrial Home, be admitted therein for the purpose of giving spiritual advice and instruction to the inmates therein of their respective denominations.

Chairman's
warrant.

114. (1) The chairman of the advisory board of the Boys' Industrial Home may issue a warrant under his official seal requiring the sheriff or a constable or other officer to deliver any boy sentenced to be confined therein to the Superintendent of the Boys Industrial Home.

Copy of
sentence
sufficient
warrant for
confinement
in gaol.

(2) A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or magistrate by whom the boy is sentenced to such confinement, shall be sufficient authority to the sheriff, constable or other officer, if he is directed verbally or otherwise so to do, to convey the boy to the common gaol of the county where the sentence is pronounced, and for the gaoler of such gaol to receive the boy and retain him until such warrant is presented to the gaoler.

111. Where any boy, apparently under the age of sixteen years, is convicted of an offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of not less than fourteen days, any judge of the Supreme Court or a county court, in any case occurring within the county or counties for which he is such judge, may examine and inquire into the circumstances of such case and conviction, and when he considers that the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy, either forthwith or at the expiration of his imprisonment in such gaol, to the *Industrial Home*, to be there detained for the purpose of his industrial and moral education for an indefinite period, not exceeding in the whole five years from the commencement of his imprisonment in the common gaol.

112. Every boy so sentenced shall be detained in the *Industrial Home* until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions of this Part and to any regulations made as hereinafter provided, be detained in the *Industrial Home* for the purpose of his industrial and moral education for a period not to exceed five years from the commencement of his imprisonment.

113. The clergymen of all religious denominations shall, at all convenient hours and subject to the rules or regulations governing the *Industrial Home*, be admitted therein for the purpose of giving spiritual advice and instruction to the inmates therein of their respective denominations.

114. (1) The chairman of the governing board of the *Industrial Home* may issue a warrant under his official seal requiring the sheriff or a constable or other officer to deliver any boy sentenced to be confined therein to the Superintendent of the *Industrial Home*.

(2) A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or magistrate by whom the boy is sentenced to such confinement, shall be sufficient authority to the sheriff, constable or other officer, if he is directed verbally or otherwise so to do, to convey the boy to the common gaol, of the county where the sentence is pronounced, and for the gaoler of such gaol to receive the boy and retain him until such warrant is presented to the gaoler.

Binding as
apprentice.

115. (1) Where any respectable or trustworthy person is willing to undertake the charge of any boy committed to the Boys' Industrial Home, when such boy is over the age of twelve years, as an apprentice to the trade or calling of such person, and such boy is confined in the Boys' Industrial Home by virtue of a sentence or order pronounced under the authority of any Act of the Parliament of Canada, the Parole Committee may, with the consent of the parent or guardian of the boy, and in the name of the advisory board of the Boys' Industrial Home, bind the said boy to such person for any term not to extend without his consent, beyond a term of five years from the commencement of his imprisonment. 5 10

Term.

Discharge on
probation.

(2) The said advisory board shall thereupon order that such boy shall be discharged from the Boys' Industrial Home on probation, to remain so discharged, if his conduct during the residue of the term of five years, from the commencement of his imprisonment, continues good, and such boy shall be discharged accordingly. 15

Wages.

(3) Any wages reserved in any indenture of apprenticeship made under this section are payable to such boy, or to some other person for his benefit. 20

Recommittal
for violation
of parole.

116. The judge of any county court or of a juvenile court or a magistrate may, upon satisfactory proof that any boy who was sentenced under the provisions of any Act of the Parliament of Canada, and who has been discharged on parole, has violated the conditions of his discharge, order such boy to be recommitted to the Boys' Industrial Home, and thereupon such boy shall be detained therein under his original sentence as if he had never been discharged. 25 30

Transfer from
Dorchester
Penitentiary
to Boys'
Industrial
Home.

117. The Governor General, by warrant under his hand, may, at any time in his discretion, on the application of the Attorney General of the Province of New Brunswick, cause any boy who is imprisoned in the Dorchester Penitentiary, or in any gaol in the Province, for an offence against the law of Canada, and who is certified by any judge of the Supreme Court, or of the county court, to have been, in the opinion of such judge, at the time of his trial under the age of fifteen years, to be transferred to the said Boys' Industrial Home in the Province, for the remainder of his term of imprisonment, and for such further term in addition thereto as the Governor General, on the report and recommendation of such judge, deems expedient; but the whole term of imprisonment shall not exceed five years from the commencement of the imprisonment in such penitentiary or gaol. 35 40 45

115. (1) Where any respectable or trustworthy person is willing to undertake the charge of any boy committed to the said *Industrial Home*, when such boy is over the age of twelve years, as an apprentice to the trade or calling of such person, and such boy is confined in the *Industrial Home* by virtue of a sentence or order pronounced under the authority of any Act of the Parliament of Canada, the Superintendent of the *Industrial Home*, may with the consent of the parent or guardian of the boy, and in the name of the governing board of the *Industrial Home*, bind the said boy to such person for any term not to extend without his consent, beyond a term of five years from the commencement of his imprisonment.

(2) The said governing board shall thereupon order that such boy shall be discharged from the said *Industrial Home* on probation, to remain so discharged, if his conduct during the residue of the term of five years, from the commencement of his imprisonment, continues good, and such boy shall be discharged accordingly.

(3) Any wages reserved in any indenture of apprenticeship made under this section are payable to such boy, or to some other person for his benefit.

116. *No boy shall be discharged under section 115 until after the fixed term of his sentence has elapsed, unless by the authority of the Governor General.*

117. *The Governor in Council may make such regulations as he considers advisable for the discharge, after the expiration of the fixed term of sentence, of prisoners confined in the Industrial Home under any Act of the Parliament of Canada, and such discharge may be either absolute or upon probation, subject to such conditions as are imposed under the authority of the said regulations.*

Transfer from
Home to
penitentiary.

118. The Governor General, by warrant under his hand, may, at any time in his discretion, on the application of the Attorney-General of the Province of New Brunswick, cause any boy who is imprisoned in the said Boys' Industrial Home under sentence for an offence against any law of 5
Canada, and for a term of years for which he might have been sentenced to imprisonment in the penitentiary, to be transferred to the Dorchester Penitentiary for the remainder of his term of imprisonment.

New Brunswick Central Reformatory.

Transfer to
Central
Reformatory.

119. (1) Every person confined in any one of the common 10
gaols of the Province under sentence of imprisonment for any offence against the laws of Canada may, by warrant signed by the Inspector of Penal Institutions or by such other officer as is authorized by the Lieutenant-Governor in Council in that behalf, be transferred from such common 15
gaol to the New Brunswick Central Reformatory, there to be imprisoned for the unexpired portion of the term of imprisonment to which such person was originally sentenced.

Custody.

(2) Such person shall thereupon be imprisoned in the New Brunswick Central Reformatory for the residue of 20
such term unless in the meantime he is lawfully discharged or removed and is subject to all the rules and regulations of the New Brunswick Central Reformatory.

Offender to
be received.

119A. The Superintendent of the New Brunswick Central Reformatory shall receive every offender so trans- 25
ferred and every offender legally certified to him as sentenced to imprisonment therein, and shall detain him, subject to all the rules and regulations and discipline of the institution, until the term for which he has been sentenced is completed or until he is otherwise paroled or discharged in due course 30
of law.

Employment.

120. (1) The Lieutenant-Governor in Council may, from time to time, authorize, direct or sanction the employment upon any specific work or duty without or beyond the limits of the New Brunswick Central Reformatory of any of the 35
prisoners confined or sentenced to be imprisoned therein or transferred thereto, as herein provided.

Discipline.

(2) All such prisoners are, during such last mentioned employment, subject to such rules, regulations and discipline as are approved by the Lieutenant-Governor in Council 40
in that behalf.

118. The judge of any county court or police magistrate may, upon satisfactory proof that any boy who was sentenced under the provisions of any Act of the Parliament of Canada, and who has been discharged on *probation*, has violated the conditions of his discharge, order such boy to be recommitted to the *Industrial Home*, and thereupon such boy shall be detained therein under his original sentence as if he had never been discharged.

119. The Governor General, by warrant under his hand, may, at any time in his discretion, on the application of the Attorney-General of the Province of New Brunswick, cause any boy who is imprisoned in the Dorchester Penitentiary, or in any gaol in the Province, for an offence against the law of Canada, and who is certified by any judge of the Supreme Court, or of the county court, to have been, in the opinion of such judge, at the time of his trial under the age of fifteen years, to be transferred to the said *Industrial Home* in the Province, for the remainder of his term of imprisonment, and for such further term in addition thereto as the Governor General, on the report and recommendation of such judge, deems expedient; but the whole term of imprisonment shall not exceed five years from the commencement of the imprisonment in such penitentiary or gaol.

120. The Governor General, by warrant under his hand, may, at any time in his discretion, on the application of the Attorney-General of the Province of New Brunswick, cause any boy who is imprisoned in the said *Industrial Home* under sentence for an offence against any law of Canada, and for a term of years for which he might have been sentenced to imprisonment in the penitentiary, to be transferred to the Dorchester Penitentiary for the remainder of his term of imprisonment."

The proposed sections 119, 119A, 120 and 120A are new, and correspond to present sections 47 to 50 and also to 170 to 173.

Transfer of
offenders.

120A. The Inspector of Penal Institutions, or such other officer as is authorized by the Lieutenant-Governor in Council, may, from time to time by warrant, direct the removal of any offender from the New Brunswick Central Reformatory to any common gaol of the Province, or from any common gaol of the Province to any other common gaol of the Province." 5

